



## Legislative Bulletin.....September 19, 2007

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#### **H.R. 2761**—Amendments to the Terrorism Risk Insurance Revision and Extension Act

H.R. 2761, the Terrorism Risk Insurance Revision and Extension Act (sponsored by Rep. Michael Capuano, D-MA), is scheduled to be considered on the House floor on Wednesday, September 19, 2007, subject to a structured rule ([H.Res. 660](#)), self-executing (i.e. automatically passing) one amendment and making in order the following two amendments, each debatable for 10 minutes.

The rule waives all points of order against consideration of the bill, except those regarding PAYGO and earmarks, waives all points of order against the bill itself, and allows the Chair to postpone consideration of the legislation at any time during its consideration. The rule allows one motion to recommit with or without instructions.

Note: The summaries below are based on RSC staff's review of *actual amendment text*. For a summary of the underlying bill, see a separate RSC document released yesterday.

**RSC Staff Contact:** Paul Teller; [paul.teller@mail.house.gov](mailto:paul.teller@mail.house.gov); 202-226-9718

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### **SELF-EXECUTING AMENDMENT**

The self-executing amendment (i.e. the amendment that automatically passes when the rule itself passes) would technically bring the underlying bill into compliance with PAYGO requirements, as confirmed by CBO. Specifically, the amendment:

- Requires the enactment of a joint resolution of approval (of a certification by the Secretary of Treasury, in concurrence with the Secretaries of State and Homeland Security, as well as the Attorney General that there has been a covered act of terrorism) before any TRIA compensation could be paid;
- Provides for expedited procedures for the consideration of the joint resolution in the House and Senate;
- Provides that, in instances when such a joint resolution is not approved, an insurer's financial responsibility for insured losses from the applicable act of terrorism would be limited to the insurer's deductible (and authorizes insurers to write this stipulation into their policies);

- Provides that any lawsuits arising from failure to approval a joint resolution would have to be brought in federal court (and any pending state-level cases would be removed to federal court); and
- Makes several conforming technical changes.

**BUDGET GIMMICK ALERT:** Many conservatives may regard this self-executing amendment as a budget gimmick to mask real spending and circumvent PAYGO rules. This joint resolution procedure will not save any real money (if the resolution is approved), despite the on-paper appearance in the revised CBO score, and will add further uncertainty to the terrorism insurance market. Insurers may find it difficult to write terrorism insurance policies when they do not know whether federal reinsurance exists or does not exist—and when such reinsurance may vary depending on the terrorist attack and on political situations in Washington.

The Administration, in its [Statement of Administration Policy for H.R. 2761](#), also opposed any attempt to “get around” the mandatory spending in this bill: “Nor would the costs of this bill be diminished by a requirement that Congress vote to release funds after a terrorist event has occurred. The Administration strongly opposes the use of any such gimmicks to mask the true cost of the legislation and circumvent budget rules.”

## **AMENDMENTS MADE IN ORDER**

**1. Frank (D-MA):** Manager’s Amendment. This amendment would:

- Clarify the certification process for acts of NBCR (nuclear, biological, chemical, or radiological) terrorism;
- Apply the deductible reset mechanism (whereby a \$1 billion event would reduce deductibles to 5% of premiums plus half-percentage-point increases every year thereafter) to the NBCR deductible, beginning in the fifth program-year after enactment of this bill);
- Provide that the Consumer Price Index for All Urban Consumers (CPI-U) would be used to calculate the inflation adjustments in the underlying bill; and
- Make technical and conforming changes.

**2. Pearce (R-NM):** Changes the increment of increase in the deductible rest mechanism (whereby a \$1 billion event would reduce deductibles to 5% of premiums plus half-percentage-point increases every year thereafter) to one percentage-point.